

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

PYOTT-BOONE ELECTRONICS INC., a	)	
Virginia corporation (f/k/a PBE ACQUISITION,	)	
INC.),	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. _____
	)	
IRR TRUST FOR DONALD L. FETTEROLF	)	
DATED DECEMBER 9, 1997; IRR TRUST	)	
FOR M. MITCHELL FETTEROLF DATED	)	
DECEMBER 9, 1997; FETTEROLF GROUP,	)	
INC., DONALD L. FETTEROLF, individually	)	
and as Trustee for the IRR Trust for Donald L.	)	
Fetterolf dated December 9, 1997; M.	)	
MITCHELL FETTEROLF, individually and as	)	
Trustee for the IRR Trust for M. Mitchell	)	
Fetterolf dated December 9, 1997; and	)	
BRIAN FETTEROLF,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendants IRR Trust for Donald L. Fetterolf Dated December 9, 1997, IRR Trust for M. Mitchell Fetterolf Dated December 9, 1997, Fetterolf Group, Inc., Donald L. Fetterolf, M. Mitchell Fetterolf, and Brian Fetterolf (collectively, "Defendants"), by and through their undersigned counsel, and pursuant to 28 U.S.C. §§ 1332(a)(1), 1441(a) and 1446(b), hereby provide notice of removal of this action from the Circuit Court for Tazewell County, Virginia to the United States District Court for the Western District of Virginia attached as Exhibit A. As grounds for removal, Defendants state as follows:

1. On June 14, 2012, Pyott-Boone Electronics Inc. ("Plaintiff") commenced an action in the Circuit Court for Tazewell County, Virginia at Case No. CL 12-678 (the "State

Court Action") against six defendants: IRR Trust for Donald L. Fetterolf dated December 9, 1997; IRR Trust for M. Mitchell Fetterolf dated December 9, 1997; Fetterolf Group, Inc.; Donald L. Fetterolf, individually and as Trustee for the IRR Trust for Donald L. Fetterolf dated December 9, 1997; M. Mitchell Fetterolf, individually and as Trustee for the IRR Trust for M. Mitchell Fetterolf dated December 9, 1997; and Brian Fetterolf.

2. Defendants were served with Plaintiff's Complaint on or about July 30, 2012.

3. Copies of processes, pleadings and other papers served upon Defendants to date are attached hereto as a collective Exhibit B. Defendants are not aware of any other filings or entry of any orders in the foregoing civil action.

4. This Court has original jurisdiction of this action under the provisions of 28 U.S.C. § 1332(a)(1), and this action may be removed from the Circuit Court for Tazewell County, Virginia pursuant to 28 U.S.C. § 1441(a), as this action is one between citizens of different states, and the matter in controversy is in excess of \$75,000.00, exclusive of interest and costs. In particular:

(a) Plaintiff seeks compensatory damages of up to \$17 million, plus prejudgment interest.

(b) Plaintiff is a corporation, duly organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business at 1459 Wittens Mill Road, North Tazewell, Virginia 24630.

(c) Defendant Fetterolf Group, Inc. is a corporation, duly organized and existing under the laws of Pennsylvania, with its principal place of business at 227 New Centerville Road, Somerset, Pennsylvania 15501.

(d) Defendant Donald L. Fetterolf is an individual citizen of Pennsylvania who resides in Pennsylvania.

(e) Defendant M. Mitchell Fetterolf is an individual citizen of Pennsylvania who resides in Pennsylvania.

(f) Defendant Brian Fetterolf is an individual citizen of Pennsylvania who resides in Pennsylvania.

(g) Because Donald L. Fetterolf is a citizen of Pennsylvania, defendant IRR Trust for Donald L. Fetterolf dated December 9, 1997 also has Pennsylvania citizenship. *N.Y. State Teachers Retirement Sys. v. Kalkus*, 764 F.2d 1015, 1018 (4<sup>th</sup> Cir. 1985) (“[O]nly the citizenship of the trustee of a . . . trust [is] taken into account for purposes of diversity jurisdiction”) (citing *Navarro Savings Assoc. v. Lee*, 446 U.S. 458, 464 (1980)).

(h) Because M. Mitchell Fetterolf is a citizen of Pennsylvania, defendant IRR Trust for M. Mitchell Fetterolf dated December 9, 1997 also has Pennsylvania citizenship. *Id.*

5. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty (30) days of service on Defendants of a copy of the Complaint setting forth the claims for relief upon which this action is based.

6. Defendants are therefore entitled to remove the State Court Action to the United States District Court for the Western District of Virginia, Abingdon Division, as the district court for the district and division embracing Tazewell County. *See* 28 U.S.C. § 1441(a).

7. Counsel for Defendants has or will serve copies of this Notice of Removal upon (1) counsel for Plaintiff and (2) the Circuit Court for Tazewell County, Virginia, in accordance with the provisions of 28 U.S.C. § 1446(d).



